IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 144 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PUNABHAI MATHURBHAI MAKWANA

Versus

STATE OF GUJARAT

Appearance:

THROUGH JAIL for Petitioner

MS HARSHA DEVANI, APP, for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/03/2000

ORAL JUDGEMENT

Rule. Ms. Harsha Devani, A.P.P. waives service of rule on behalf of the respondents.

2. Having perused the papers of the special criminal application, the order of I.G. Prisons, Gujarat State, Ahmedabad and the police report, I am satisfied that this authority has not taken the matter in its correct perspective and felt contended and satisfied to fill up the blanks in the printed form.

3. The furlough leave or parole leave is a benefit provided to the prisoner. It is true that it cannot be claimed as of right but nevertheless it cannot be rejected without application of mind. The complainants naturally are hostile to the accused - petitioner and they may make all attempts to see that he may not come out of prison. Only on the basis of the complaints of the complainants, if the police authority reports adverse against the prisoner it is again the matter where conveniently it can be said to be an opinion without application of mind. The police officer concerned has to consider the material placed before him and then to form an opinion whether in the facts of the case it is in the larger interest of the public to release this prisoner on parole or furlough leave or not. That precisely has not been done.

4. So far as the second offence said to have been committed by the petitioner while he was absconding from jail is concerned, it is not a ground given for the rejection of the application of the petitioner for this furlough leave.

5. In the result, this special criminal application and Rule stand disposed of in terms that the I.G. Prisons, Gujarat State at Ahmedabad shall decide the matter afresh and where the application of the petitioner is not acceptable then a reasoned order may be passed and copy of the same may be sent to the petitioner forthwith. Liberty is granted to the petitioner for revival of this special criminal application in case of difficulty.

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